

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1462

Introduced by Senator Leno

February 24, 2012

An act to add Sections 26605.6 and 26605.7 to the Government Code, relating to sheriffs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Leno. County sheriffs: release of prisoners: medical release.

Existing law requires the sheriff to receive all persons committed to jail by competent authority and authorizes a sheriff to release a prisoner from a county correctional facility for transfer to a medical care facility or residential care facility upon the advice of a physician, as specified, provided the sheriff gives specified notice to the superior court.

This bill would additionally authorize the sheriff to release a prisoner from a county correctional facility after conferring with a physician who has oversight for providing medical care at the county jail if the sheriff determines that the prisoner would not reasonably pose a threat to public safety and the prisoner, upon diagnosis by the examining physician, is deemed to have a life expectancy of 6 months or less, provided the sheriff gives specified notice to the superior court. The bill would also authorize the sheriff to request the court to grant medical probation or to resentence a prisoner to medical probation in lieu of jail time to ~~prisoners a prisoner convicted and sentenced for specified crimes to the~~ to a county jail, if the prisoner is physically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, which has resulted in the prisoner requiring 24-hour care, and if that incapacitation did not exist at the

time of sentencing or if the prisoner would require acute long-term inpatient rehabilitation services. The bill would authorize the probation officer or the court to request a medical examination of the person released on medical parole at any time, and to return that person to the sheriff's custody if that person no longer qualifies for release.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26605.6 is added to the Government
2 Code, to read:

3 26605.6. (a) The sheriff, or his or her designee, has the
4 authority, after conferring with a physician who has oversight for
5 providing medical care at ~~the~~ a county jail, or that physician's
6 designee, to release from a county correctional facility, a prisoner
7 sentenced to ~~the~~ a county jail if the sheriff determines that the
8 prisoner would not reasonably pose a threat to public safety and
9 the prisoner, upon diagnosis by the examining physician, is deemed
10 to have a life expectancy of six months or less.

11 (b) ~~Prior to~~ *Before* the release of any prisoner pursuant to this
12 section, the sheriff shall notify the presiding judge of the superior
13 court of his or her intention to release the prisoner. This notification
14 shall include:

15 (1) The prisoner's name.

16 (2) The offense or offenses for which the prisoner was
17 incarcerated, if applicable, and the pending charges, if applicable.

18 (3) The date of sentence, if applicable.

19 (4) The physician's diagnosis of the prisoner's condition.

20 (5) The physician's prognosis for the prisoner's recovery.

21 (6) *The prisoner's address after release.*

22 (c) *Before a prisoner's compassionate release from a county*
23 *jail pursuant to this section, the sheriff, or his or her designee,*
24 *shall secure a placement option for the prisoner in the community*
25 *and, in consultation with the county welfare department or another*
26 *applicable county agency, examine the prisoner's eligibility for*
27 *federal Medicaid benefits or other medical coverage that might*
28 *assist in funding the prisoner's medical treatment while in the*
29 *community.*

30 (e)

1 (d) This section shall not be construed as authorizing the sheriff
2 to refuse to receive and incarcerate a defendant or sentenced
3 individual who is not in need of immediate medical care or who
4 has a terminal medical condition.

5 SEC. 2. Section 26605.7 is added to the Government Code, to
6 read:

7 26605.7. (a) The sheriff, or his or her designee, after conferring
8 with the physician who has oversight for providing medical care,
9 or the physician's designee, may request the court to grant medical
10 probation or to resentence a prisoner to medical probation in lieu
11 of jail time for any prisoner sentenced to the a county jail pursuant
12 to subdivision (h) of Section 1170 of the Penal Code, under either
13 of the following circumstances:

14 (1) The prisoner is physically incapacitated with a medical
15 condition that renders the prisoner permanently unable to perform
16 activities of basic daily living, which has resulted in the prisoner
17 requiring 24-hour care, if that incapacitation did not exist at the
18 time of sentencing.

19 (2) The prisoner would require acute long-term inpatient
20 rehabilitation services.

21 (b) *Before a prisoner's release to medical probation, the sheriff,*
22 *or his or her designee, shall secure a placement option for the*
23 *prisoner in the community and, in consultation with the county*
24 *welfare department or another applicable county agency, examine*
25 *the prisoner's eligibility for federal Medicaid benefits or other*
26 *medical coverage that might assist in funding the prisoner's*
27 *medical treatment while in the community.*

28 ~~(b)~~

29 (c) During the time on probation pursuant to this section, the
30 probation officer or court may, at any time, request a medical
31 reexamination of the ~~person~~ probationer by a physician who has
32 oversight for providing medical care to prisoners in the a county
33 jail, or the physician's designee. If the court determines, based on
34 that medical examination, that the ~~person's~~ probationer's medical
35 condition has improved to the extent that the ~~person~~ probationer
36 no longer qualifies for medical probation, the court may return the
37 ~~person~~ probationer to the custody of the sheriff.

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